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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,888	12/03/1998	CHARLES A. ELDERING	8887.3002	9427

27832 7590 07/30/2003

EXPANSE NETWORKS, INC.  
6206 KELLERS CHURCH ROAD  
PIPERSVILLE, PA 18947

EXAMINER

GRANT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/204,888

Applicant(s)

ELDERING ET AL.

Examiner

Christopher Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 78-101 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 78-101 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 78-101 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (Alexander) (of record).

Considering claim 78, Alexander discloses a method for generating a subscriber profile for a subscriber of television services, the method comprising:

- a) monitoring subscriber interactions with a television (col. 28, line 12 – col. 29, line 11);
- b) retrieving content characteristics (EPG) associated with content included in the subscriber television viewing interactions (col. 28, line 12 – col. 30, line 37);
- c) processing the subscriber television viewing interactions and the content characteristics to generate subscriber viewing habits (e.g. viewer watches “sports” etc. col. 29, lines 55-67);
- d) retrieving heuristic rules associated with at least some subset of the subscriber interactions, (profile program “learns” or performs “sophisticated analysis”, col. 29, line 55 – col. 30, line 44), wherein the heuristic rules associate subscriber television viewing habits with non-television viewing characteristics about the subscriber (an individual viewing habits compared with the profile of others, col. 30, lines 38-44, wherein the profile of others include demographic characteristics or non-television viewing characteristics, e.g. “zip code”, see col. 28, lines 11-21); and

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e) applying the heuristic rules to the subscriber interactions to generate the subscriber profile (col. 30, lines 1-44).

Claim 79 is met by programming and advertisements disclosed throughout the entire reference including but not limited to col. 18, lines 1-54.

Claim 80 is met by EPG content characteristics disclosed throughout the entire reference including but not limited to columns 7-8.

Claim 81 is met by the EPG themes (sports, news etc.) (col. 7, lines 45-55).

Claims 82-84 are met by EPG content and data-mining disclosed throughout the entire reference including but not limited to col. 31, lines 48-53.

Claim 85 is met by the monitoring of viewer interactions including selecting programs and interacting with the EPG as disclosed in columns 28-30.

Claims 86-89 are met by zip code and/or married status (family size) disclosed at col. 28, lines 11-51 and col. 30, lines 30-44.

Claims 90 and 98 are met by the association of at least the subset of program genre (col. 28, lines 1-21, col. 29, lines 37-67) to family size (“married, col. 30, lines 29-32) , program genre to age (col. 30, lines 29-31)

Claims 99-101 are met by zip code and/or married status (family size) disclosed at col. 28, lines 11-51 and col. 30, lines 30-44.

Considering claims 91-92, Alexander discloses a method for generating a subscriber profile for a subscriber of television services, the method comprising:

- a) monitoring subscriber interactions with a television (col. 28, line 12 – col. 29, line 11)
- b) retrieving heuristic rules associated with at least some subset of the subscriber interactions, (profile program “learns” or performs “sophisticated analysis”, col. 29, line 55 – col. 30, line 15) wherein the heuristic rules predict demographic characteristics about the subscriber including at least some subset of gender, income level and **family size** (e.g. “**married**” col. 30, lines 30-37); and
- c) applying the heuristic rules to the subscriber interactions to generate the subscriber profile (col. 30, lines 17-37).

Claims 93 and 94 are met by the monitoring, retrieving and applying of the EPG (content characteristics) as disclosed throughout the entire reference including but not limited to col. 28, line 11 – col. 30, line 37.

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Claim 95-97 are met by the association of subscriber interactions (col. 28, line 12 – col. 29, line 1 and col. 30, lines 7-9) with specific demographic characteristics or non-interaction traits (age, married, viewer with children, col. 30, lines 17-37). Alternatively, Claims 95-97 are met by the association of subscriber interactions (an individual viewer profile) with viewer profile of others (col. 30, lines 38-44), wherein the viewer profile of others include demographic characteristics or non-interaction traits (e.g. “zip code”, see col. 28, lines 11-21).

#### ***Terminal Disclaimer***

3. The terminal disclaimers filed on 4/11/200 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent 6,457,010 and/or to any patent granted on pending application 09/205,119 has been received.

#### ***Response to Arguments***

4. Applicant's arguments (filed 12/06/2002) with respect to claims 78-101 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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## Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

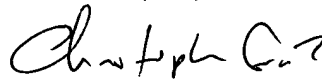
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Grant whose telephone number is (703) 305 4755.

The examiner can normally be reached on Monday-Friday 8:00am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9314 for regular communications and (703) 872 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Christopher Grant  
Primary Examiner  
Art Unit 2611

CG  
July 25, 2003



ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600